



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on 29th July, 2005:—

### I

BILL NO. XXXV OF 2005

*A Bill to provide for deterrent punishment for pushing or forcing the girl child into flesh trade or prostitution and for immoral traffic of a girl child and for hiring or taking possession of a girl child prostitute by her client for promiscuous sexual activities and for the proper rehabilitation and welfare measures to be initiated by the State for such hapless girl child and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Pushing and Forcing Girl Child into Flesh Trade and Immoral Traffic Act, 2005.

Short title,  
extent and  
Commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means in the case of a State, the Government of that State and in other cases the Central Government;

(b) "girl child" means a female human who is below the age of eighteen years;

(c) "prescribed" means prescribed by rules made under this Act;

(d) words and expressions used but not defined in this Act but defined in the Indian Penal Code, 1860 or the Immoral Traffic (Prevention) Act, 1956 shall have the meanings respectively assigned to them in those Acts.

45 of 1860.  
104 of 1956.

Prohibition of  
pushing or  
forcing girl  
child into flesh  
trade or  
prostitution.

3. (1) The pushing, forcing, abetting, procuring a girl child into flesh trade or prostitution or immoral traffic, by whatever name called, is hereby prohibited.

(2) Whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

Penalty.

4. Notwithstanding anything contained in the Indian Penal code or the Immoral Traffic (Prevention) Act, 1956 or any other law for the time being in force, whoever,—

45 of 1860.  
104 of 1956.

(a) abets or induces, by whatever means or in any manner whatsoever, a girl child to flesh trade or prostitution, notwithstanding the family or near or dear relation of such girl child with the accused or under any prevailing custom, shall be punished with imprisonment which shall not be less than five years but may extend to ten years and also with fine which may extend to five lakh rupees;

(b) pushes or forces a girl child to flesh trade or prostitution shall be punished with death;

(c) owns or runs a brothel having girl child prostitute, such owner or manager shall be punished with life imprisonment and also with fine which may extend to five lakh rupees;

(d) indulges in the immoral traffic of a girl child or for any unlawful or immoral purpose shall be punishable with imprisonment which may extend to ten years and also with fine which may extend to two lakh rupees;

(e) hires, procures or obtains possession of a girl child for promiscuous sexual intercourse with her shall be punished with life imprisonment and also with fine which shall not be less than five lakh rupees but may extend to ten lakh rupees.

Offences to be  
cognizable and  
non-bailable.

5. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 the offences under this Act shall be cognizable and non-bailable.

2 of 1974

Special Courts  
to try the  
offences.

6. (1) The offences under this Act shall be tried by Special Courts.

(2) The appropriate Government shall establish such number of Special Courts, as it may deem necessary for the purposes of sub-section (1) and for the quick disposal of cases under this Act.

Rehabilitation  
and other  
welfare  
measures.

7. The appropriate Government shall, as soon as may be, formulate rehabilitation and welfare measures for such girl child rescued from flesh trade or prostitution or who may be rendered out of profession after the commencement of this Act and these measures shall include free medical care, shelter, food, clothing and other necessities of day-to-day living, free education including vocational education, gainful employment, marriage and such other measures as may be prescribed.

Central Govt.  
to provide  
necessary  
funds.

8. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate necessary funds, from time to time, for carrying out the purposes of this Act.

9. The provisions of this Act and rules made thereunder shall have effect notwithstanding any thing inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Act to have  
overriding  
effect.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make  
rules.

### STATEMENT OF OBJECTS AND REASONS

In many cases the girls are kidnapped and forced into prostitution. They are also procured from the unsuspecting poverty-stricken parents for this purpose. This is very rampant in tribal and rural areas. Recently media reported that pimps have become active in drought affected areas luring the girls of such families into their net where hapless farmers took the extreme step of committing suicide. Even innocent girls from the neighbouring countries are also procured by anti social elements for this purpose.

The greed for more money is also pushing more and more adolescent girls into flesh trade as they fetch handsome amount from the prospective clients. These days when adventure tourism is gaining momentum the tourists who indulge in promiscuous sex for fun and joy prefer the girl child prostitutes. The professional pimps, anti social elements, criminal gangs, brothels' owners, call girl racketeers, tour operators, hoteliers and others are very active to mint money from the rich and neo rich prospective clients. As a first step to lure, the unsuspecting girls are promised a decent and comfortable life generally to provide a good employment or career in modeling or even a role in films. Once the girl is convinced the next step begins to tell her to have fun and enjoyment in five star hotels and earn handsomely which most of girls cannot reject because the temptation is raised to new heights. Once the girl takes the fatal step she lands into the world of prostitution. The deadly AIDS and other sexually transmitted diseases have endangered the lives of such hapless girls.

This alarming situation has to be tackled very effectively to save the girl child by dealing heavily with those who push or force the girl child into flesh trade or prostitution by providing deterrent punishment to the extent of death sentence to such defaulters. Deterrent punishment is also required for those who hire or obtain the girl child for sex, abet, lure or coerce a girl child to become prostitute irrespective of her relation with the girl child. There should be special Courts to quickly try the cases. Time has come to save the unsuspecting girl child from this immoral profession and from AIDS and other dangerous diseases.

Hence this Bill.

SUSHMA SWARAJ

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### FINANCIAL MEMORANDUM

Clause 6 provides that offences under this Bill shall be tried by Special Courts. Clause 7 provides for rehabilitation and other welfare measures. Clause 8 provides that Central Government shall provide adequate funds for the purpose of the Bill. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five hundred crores may involve as recurring expenditure per annum.

A sum of rupees two hundred crores may also involve as non-recurring expenditure.

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### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

## II

## BILL NO. XXXVII OF 2005

*A Bill to prevent barbarous cruelty against girls or women such as battering, killing by strangulating after committing rape, chopping the body or burning the girls or women alive and heinous crimes against the girls or women such as committing gang rape, publicly stripping and parading naked or raping pregnant woman resulting in her death or miscarriage or forcing the girls and women into prostitution by providing deterrent punishment including capital punishment and for matters connected therewith and incidental thereto*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Heinous Crime and Barbarous Cruelty against Women Act, 2005.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases the Central Government;

(b) "barbarous cruelty" includes,—

(i) committing rape on a girl or woman, as the case may be, and then killing her by battering, strangulating or by any other means;

(ii) after killing a girl or woman, as the case may be, disposing off her body by chopping into pieces or by burning or throwing at secluded place or nullah, river, canal or by burying;

(iii) burning an alive girl or woman, as the case may be, leading to her death;

(iv) killing a girl or woman, as the case may be, by way of gang rape;

(c) "heinous crime" includes,—

(i) committing gang rape on a girl or woman;

(ii) publicly stripping or parading naked in full public view of a girl or woman;

(iii) committing rape on a pregnant woman resulting in her death or miscarriage;

(iv) forcing a girl or woman into prostitution;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "special court" means a special court established under section 4:

Penalty for heinous crime or barbarous cruelty against women.

3. (1) Notwithstanding anything contained in the Indian Penal Code, 1860 or any other law for the time being in force, whoever commits heinous crime or barbarous cruelty against any girl or woman, as the case may be, shall be punished with death.

45 of 1860.

(2) The offences under this Act shall be tried by Special Courts.

Constitution of Special Courts.

4. (1) The appropriate Government shall, in consultation with the Chief Justice of the concerned High Court in the case of a State and the Chief Justice of India in other cases, by notification in the Official Gazette, constitute such number of Special Courts preferably to be presided over by women Judges as it may deem necessary for the purposes of this Act.

(2) The set up of a Special Court constituted under sub-section (1) shall be such as may be prescribed.

Offence to be cognizable and non-bailable.

5. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 an offence committed under this Act shall be cognizable and non-bailable.

2 of 1974.

Bar on granting anticipatory bail.

6. Notwithstanding anything contained in any other law for the time being in force no court other than a High Court or the Supreme Court of India shall have the authority to grant anticipatory bail to any person accused of committing an offence under this Act.

Power to remove difficulty.

7. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the official Gazette make such provisions, not inconsistent with the provisions of this Act as appears to it to be necessary or expedient for remove the difficulty.

Act to have overriding effect.

8. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force but, save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force relating to cruelty against women.

Power to make rules.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

### STATEMENT OF OBJECTS AND REASONS

Girls and women are vulnerable to exploitation and atrocities in the society. Sex starved maniacs sexually abuse them whenever they get an opportunity and commit rape on them. However in many cases after committing rape on the hapless girl or woman she is killed brutally. She is battered, stabbed or strangled. Many a time one comes across horrifying news of chopping the body of a hapless girl or woman into pieces, stacked into a gunny bag, etc. and thrown in the nearby jungle, nullah, river etc. so as to eliminate the evidence. Many a time gangrape is committed on a woman and thereafter, she is killed and her body is disposed off. Many a time the girls and women are stripped and paraded naked in the full public view to take revenge. Similarly, barbarous atrocities are committed on a pregnant woman when she is raped resulting in her death or miscarriage. Many a time the woman is burnt alive for dowry or other reasons. The girls and women are forced into prostitution. This heinous and barbarous cruelty against the girls and women needs to be prevented by providing capital punishment. It is also necessary that such offences should be tried by Special Courts headed by women judges which should also be made cognizable and non-bailable. It will certainly have the desired results.

Hence this Bill.

SUSHMA SWARAJ

### FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the Constitution of special Courts. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees fifty crores may involve as recurring expenditure per annum.

A sum of rupees twenty crores may also involve as non-recurring expenditure.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of Legislative power is of normal character.

### III

#### BILL NO. XXXIX OF 2005

*A Bill to provide for the welfare measures to be undertaken by the State for the unorganised labour and agricultural workers by setting up a Welfare Authority and a Welfare Fund for the payment of minimum wages, for pension and provident fund facilities, maternity and creche facilities along with medicare to the women workers and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Unorganised Labour and Agricultural Workers (Welfare) Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may by notification in the Official Gazette, appoint.



2. In this Act, unless the context otherwise requires,—

Definition.

(a) "appropriate Government" means in the case of State the Government of that State and in other cases the Central Government;

(b) "Authority" means the Unorganised Labour and Agricultural Workers Welfare Authority established under section 3;

(c) "employer" means any person who employs, whether directly or through any other person, or contractor, whether on behalf of himself or on behalf of any other person, one or more labourer or workers for any work or work connected with the agricultural operations;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "unorganised labour" means those labourers who are not members of any labour or trade union and hired to do any work by another person;

(f) "wages" means the remuneration capable of being expressed in terms of money which shall, if the terms of the contract of employment, whether express or implied, are fulfilled, be payable to a person in respect of the work done in such employment;

(g) "Welfare Fund" means the Welfare Fund set up for the unorganized labour and agricultural workers under this Act;

(h) "workers" means an agricultural worker who earns wages on daily or any other basis working in the agricultural operations of other persons or employers.

3. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette, establish the Unorganised Labour and Agricultural Workers Welfare Authority for the purposes of this Act.

Establishment of the Unorganised Labour and Agricultural Workers Welfare Authority.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The head office of the Authority shall be at New Delhi and the Authority may establish offices at other places in the Country as it may deem necessary.

(4) The Authority shall consist of the following members, namely:—

(a) a chairperson to be appointed by the Central Government having the background of labour related issues or of a farmer or of the judiciary;

(b) a Deputy Chairperson to be appointed by the Central Government having such qualifications as may be prescribed;

(c) Three members of Parliament of whom two shall be elected by Lok Sabha and one by the Rajya Sabha;

(d) Three members to be appointed by the Central Government to represent respectively:—

(i) the Ministry of Central Government dealing with Agriculture;

(ii) the Ministry of Central Government dealing with Labour and Employment;

(iii) the Ministry of Central Government dealing with Finance;

(e) four members to be appointed by the Central Government from amongst the unorganised labour and agricultural workers;

(f) four members to be nominated by the State Governments to be rotated amongst the States in alphabetical order.

**(5) The term of office of the Chairperson, Deputy Chairperson and members of the Authority and the procedure to be followed in the discharge of the functions of the Authority shall be such, as may be prescribed.**

**(6) The Authority shall have a Secretariat with such officers and staff and with such terms and conditions of service as may be prescribed.**

Functions of  
the Authority.

**4. (1) It shall be the duty of the Authority to promote and undertake by such measures as it thinks fit or deem necessary, welfare measures for the unorganized labour and agricultural workers.**

**(2) Without prejudice to the generality of the provisions of sub-section (1) the measures referred to therein may provide for,—**

**(a) maintaining a district wise register of unorganized labour and agricultural workers with such particulars and in such manner, as may be prescribed;**

**(b) maintaining land records from village or Panchayat level to district level;**

**(c) maintaining a district wise register of employers employing unorganized labour and agricultural workers with such particulars and in such manner as may be prescribed;**

**(d) availability of work round the year to the unorganized labour and agricultural workers;**

**(e) payment of old age pension to the unorganised labour and agricultural workers;**

**(f) Provident Fund facility to the unorganised labour and agricultural workers;**

**(g) medical care, free of cost, both the indoor and outdoor patient facilities to the unorganised labour and agricultural workers;**

**(h) maternity and creche facilities for the female workers covered under this Act;**

**(i) such other provisions as the Authority may deem necessary for the purposes of this Act.**

Unorganised  
Labour and  
Agricultural  
Workers  
Welfare Fund.

**5. (1) The Central Government shall as soon as may be, by notification in the Official Gazette, establish a Welfare Fund known as the Unorganised Labour and Agricultural Workers Welfare Fund for the purposes of this Act with initial corpus of rupees one thousand crores to be provided by the Central Government by due appropriation made by law by Parliament in this behalf and thereafter the Central Government, State Governments and employers shall contribute to the Welfare Fund to such extent and in such manner as may be prescribed.**

**(2) Corporate houses, financial institutions both domestic and international, individuals and bodies may also contribute through donations or otherwise to the Welfare Fund.**

**(3) All moneys received in the Welfare Fund shall be utilised for the welfare of the unorganised labour and agricultural workers by the Authority in such manner as the Central Government may prescribe from time to time.**

Miscellaneous  
provisions.

**6. Notwithstanding anything contained in any other law for the time being in force,—**

**(a) no employer shall engage any unorganised labourer or agricultural worker, as the case may be, unless he has registered himself with the Authority;**

**(b) every employer shall pay a minimum of rupees one thousand five hundred per month or rupees fifty per day to a labourer or worker covered under this Act engaged by him for work and this rate of wages shall be subject to change in accordance with the rise in price index;**

**(c) every day of the work done by the worker or labourer covered under this Act, shall be counted for the purpose of calculating the total period of service rendered by such worker or labourer in a month or a year.**

7. Whoever contravenes any of the provisions of this Act shall be guilty of an offence and punishable with simple imprisonment which shall not be less than six months but may extend to two years and also with fine, which may extend to one lakh rupees. Penalty.
8. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force. Savings.
9. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order to give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of the difficulty and any such order shall be final. Power to remove difficulty.
10. The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

### STATEMENT OF OBJECTS AND REASONS

Unorganised labour constitute the major chunk of the working classes in the country. Our country is predominantly rural with nearly 80 per cent of its population living in the rural areas. Therefore, agricultural workers constitute majority of the rural labour in the country. The agricultural workers too are unorganised. It has been observed that the organised labour through its bargaining power and means of strike and agitations, etc. through their Unions manages to get its demands, whether reasonable or unreasonable, fulfilled but the unorganised labour including the agriculture workers feel helpless even in getting its reasonable demands like the minimum wages, availability of work round the year, pension, provident fund, maternity benefit, creche, etc. fulfilled. They remain hand to mouth and exploited throughout their lives. Their condition is becoming worse day by day and there is no legal protection for the unorganised labour including agricultural workers.

Ours is a welfare state and considering the vast number of unorganised labour and agricultural workers in the country and their immense contribution to the national wealth and resources, it is high time that these vital sections of the society are extended welfare measures and given all possible legal protection.

This Bill seeks to achieve the above objectives.

SUSHMA SWARAJ

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### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the Unorganised Labour and Agricultural Workers Welfare Authority. Clause 5 of the Bill provides for the Unorganised Labour and Agricultural Workers Welfare Fund. The Bill if enacted will involve expenditure from the Consolidated Fund of India. Apart from one thousand crore rupees of initial corpus of the welfare fund, it is estimated that a sum of rupees two thousand crores may involve as recurring expenditure per annum.

A sum of rupees fifty crores may also involve as non-recurring expenditure.

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### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

## IV

## BILL No. LXX OF 2005

*A Bill to provide for proper care of senior citizens who are destitute by their kith and kins and the Government and for protection of lonely or old couples by way of appropriate security measures by local police, and for other welfare measures and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Destitute and Needy Senior Citizens (Care, Protection and Welfare) Act, 2005.

Short title  
extent and  
commence-  
ment.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) "destitute senior citizen" means an old person who has become infirm due to old age or chronic ailment and who has no independent and adequate means of livelihood for his subsistence;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "senior citizen" means any person who has completed sixty years of age.

Duty of kith and kins of senior citizen.

3. (1) Notwithstanding anything contained in any other law for the time being in force, it shall be the duty of the kith and kins of senior citizen to take care and support such citizen in his old age.

(2) The kith and kins of a senior citizen who fail to comply with the provisions contained in sub-section (1) shall forfeit their right to succeed the senior citizen in any manner after the death of such a senior citizen.

*Explanation*—For the purposes of sub-sections (1) and (2) the kith and kins include sons, daughters and other heirs and successors of the senior citizens.

Subsistence allowance to destitute senior citizens.

4. (1) Every destitute senior citizen shall, on an application made in the prescribed form to the appropriate Government be paid rupees one thousand per mensem as subsistence allowance by such Government in whose jurisdiction such senior citizen permanently resides.

(2) The subsistence allowance referred to in sub-section (1) shall be subject to alteration on the basis of the prevailing price index as may be determined by the Central Government.

(3) The procedure to be followed in granting and payment of subsistence allowance under this Act shall be such as may be prescribed.

Establishment of Senior Citizen Homes.

5. (1) The appropriate Government shall establish such number of Senior Citizen Homes at conspicuous places, as it may deem necessary for board and lodging of needy senior citizens in such Homes.

(2) The appropriate Government shall provide all necessary facilities of daily life in each Senior Citizen Home for the benefit of senior citizens residing therein.

(3) The appropriate Government shall also provide free medical aid and means of entertainment to the inhabitants of the Homes established under sub-section (1).

(4) The senior citizens lodged in Senior Citizen Homes shall not be entitled to subsistence allowance referred to in section 4 of this Act.

Protection of senior citizens by local police.

6. (1) Notwithstanding anything contained in any other law for the time being in force, the local police of every district headquarter shall keep a record of senior citizens residing within its jurisdiction in such manner as may be prescribed.

(2) It shall be the duty of the area Station House Officer of the local police to,—

(a) verify the character and antecedents of the domestic servant or any domestic help engaged by any senior citizen or lonely old couple residing within his jurisdiction in such manner as may be prescribed; and

(b) provide adequate security to every lonely senior citizen or lonely old couple residing within his jurisdiction.

Other Welfare measures to be taken for Senior Citizens.

7. The Appropriate Government shall also undertake the following welfare measures for the senior citizens, namely:—

(a) to provide financial assistance at nil or least minimal interest to attain financial freedom;

(b) to provide free medical and health care facilities;

(c) concessional travel by road, rail and air; and

(d) such other measures as may be prescribed.

**8. The Central Government shall, after due appropriation made by Parliament in this behalf, provide adequate funds to the State Governments for carrying out the purposes of this Act.**

Central Government to provide funds for the purposes of the Act.

**9. The provisions for this Act and rules made thereunder shall have effect, notwithstanding anything inconsistent therewith, contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to senior citizens.**

Overriding effect of the Act.

**10. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty.**

Power to remove difficulties.

**11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.**

Power to make rules.

### STATEMENT OF OBJECTS AND REASONS

With inflation and western influence in our country senior citizens are being neglected. This is against our Indian culture and philosophy. We, as responsible citizens cannot keep quiet. With the increase in life expectancy, the number of senior citizens is increasing regularly. However, in many cities in the country thousands of old citizens living alone have been target of criminals and many have lost their lives due to peoples' greed. It is our duty to provide them with security both personal and financial for their welfare.

These are the people who have contributed everything for the family, the society and the country. It is inhuman and immoral to neglect our senior citizens. They must be provided complete financial security including 'Roti, Kapra and Makaan'. Not only this they should be provided with mental and psychological support.

Hence this Bill.

SANTOSH BAGRODIA

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### FINANCIAL MEMORANDUM

Clause 4 (1) provides that appropriate Government shall give subsistence allowance to every destitute senior citizen. Sub-clauses (1), (2) and (3) of clause 5 provides for the establishment of senior citizen homes and other facilities for the benefit of the destitute senior citizens residing in it. Clause 7 also provides for the other welfare measures to be taken for senior citizen by the appropriate Government. Provisions of clause 8 is related with the appropriation made by Parliament in this behalf to provide adequate funds for the purpose of the Act.

The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about one thousand five hundred crore is likely to be involved from the consolidated Fund of India. A non-recurring expenditure of about one thousand crore is also likely to be involved.

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### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purpose of the Bill. As the matters will relate to detail only, the delegation of legislative power is of a normal character.



## V

## BILL NO. LXXI OF 2005

*A Bill to provide for the care, maintenance and other welfare measures to be undertaken by the Union and State Governments for the needy and neglected senior citizens who cannot maintain themselves or who have been neglected by their children for economic and other compelling reasons and for the care, rehabilitation and welfare measures for the orphan and runaway street children by the State through education and other means and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Needy and Neglected Senior Citizens and Orphans and Runaway Children (Care, Rehabilitation and Welfare) Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Short title,  
extent and  
commence-  
ment.

**Definitions.**

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State the Government of that State and in other cases the Central Government;

(b) “child” means a boy or girl who is below the age of eighteen years;

(c) “prescribed” means prescribed by rules made under this Act;

(d) “runaway child” means a child who has run away from the house of his parents for whatever reasons and uncared for;

(e) “senior citizen” means a citizen who has attained the age of sixty years or more.

Compulsory maintenance of old parents by children and of the needy and neglected senior citizens by the State.

3. (1) Notwithstanding anything contained in any other law for the time being in force, no person shall neglect or refuse to maintain his old parents who are unable to maintain themselves:

Provided that where the economic condition of the person is so bad that he can in no way maintain and take care of his parents, he shall be exempted from doing so in such manner as may be prescribed.

(2) It shall be the duty of the State to take care, maintain and rehabilitate the needy, neglected, physically challenged and indigent senior citizens and undertake various welfare measures for them in such manner as may be prescribed.

Register of runaway street children and orphans and provision of shelter and other amenities for them.

4. (1) The appropriate Government shall maintain a district-wise register of all orphans and runaway street children.

(2) The register shall be maintained in such manner and shall contain such information as may be prescribed.

(3) It shall be the duty of the appropriate Government to establish such number of shelters as it may deem necessary for boarding and lodging of the orphan and runaway street children free of cost.

(4) The facilities in these shelters shall be such as may be prescribed.

(5) The appropriate Government shall open sufficient number of schools and technical education institutes for the purposes of this Act in order to provide free of cost education to the children covered under this Act.

Constitution of senior citizens and orphan and Street Children Welfare Fund.

5. (1) There shall be constituted by the Central Government a fund to be known as “the Senior Citizens and Orphan and Street Children Welfare Fund” to carry out the purposes of this Act.

(2) The fund shall consist of the sums paid into it by Central and State Governments, or donations received from Corporate world, individuals or from international agencies.

Power to make rules.

6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

### STATEMENT OF OBJECTS AND REASONS

We, in India have always been proud of our culture. Paying respect to the old and taking care of the young has been part of our traditions. But in the changing times due to various influences, these values are being lost. Some people have begun to believe that it is not their duty to look after their parents when they get old. They, therefore, put them in old age homes. Many children who feel neglected runaway from their homes to find themselves finally on the streets and they often end up as criminals. Senior citizens who have suffered neglect at the hands of their children often join old age homes and today the number of old age homes is far short of the demand, as a result many neglected old and aged parents are shelterless. The story is not very different in case of orphans and runaway children. They too suffer from neglect and there are not enough shelters available for them. It is our responsibility to ensure welfare of all Indian citizens.

Hence this Bill.

SANTOSH BAGRODIA

### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that Central Government shall take care, maintain and rehabilitate the needy, neglected, physically challenged and indignant senior citizens and undertake welfare measures. Clause 4 provides for registration of runaway street children and orphans and provision of shelter and other amenities for them. Clause 5 of the Bill entails that Central Government shall constitute "the Senior Citizens and Orphan and Street Children Welfare Fund" to carry out the purposes of the Act.

The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. The recurring and non-recurring expenditure on it cannot be estimated at this stage, but has to be worked out by Central Government while implementing the provisions of the Act.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for the purposes of this Bill. The rules relate to matters of details only.

The delegation of legislative power is of a normal character.

## VI

## BILL NO. XLVI OF 2005

*A Bill to regulate the commercial advertisements on electronic media by providing norms and standards for advertisements which shall be adhered to by all broadcasters involved in the telecast of advertisements in electronic media while advertising any product or service and for matters connected therewith or incidental therewith.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title and  
commence-  
ment.

1. (1) This Act may be called the Commercial Advertisements on Electronic Media (Regulation) Act, 2005.

(2) It shall come into force at once.

(3) It shall extend to the whole of India.

2. In this Act, unless the context otherwise requires:—

Definitions.

(a) "advertisement" includes any item for publicity of goods or services inserted in any programme telecast by broadcaster on electronic media;

(b) "advertiser" means any individual or organisation which has offered advertisement for telecast on the electronic media;

(c) "Authority" means the Advertisement Regulatory Authority established under section 11;

(d) "broadcaster" means any individual or organisation which is involved in broadcasting in electronic media in any manner;

(e) "medicine" includes any drug, tonic, lotion, oil and inhaler;

(f) "prescribed" means prescribed by rules made under this Act.

3. All advertisements on electronic media shall be so designed as to conform to the law of the country and should not offend morality, decency and religious susceptibility of the people.

Advertisements to conform to the law of the country.

4. No advertisement on electronic media shall—

Norms for advertisement on electronic media.

(a) deride any race, caste, colour, creed and nationality;

(b) be against any provision of the Constitution;

(c) tend to incite people to crime, cause disorder or violence or glorify violence and obscenity in any way;

(d) adversely affect friendly relation with foreign countries;

(e) exploit national symbol or emblem; and

(f) tend to incite people towards hatred and animosity.

5. (1) No advertisement shall in its depiction, project a derogatory image of women.

Advertisement not to show women in derogatory image.

(2) Without prejudice to the generality of the aforesaid provision, women shall not be shown in any advertisement,—

(a) where they are not desirable or warranted;

(b) of a product to which they are not related;

(c) as subordinate to or performing secondary role in the society.

6. (1) No advertisement shall relate to or promote cigarettes, tobacco products, liquor, wines and other intoxicants.

Advertisement not to promote tobacco product and intoxicants.

(2) No advertisement shall in the guise or pretext of other drinks or products, promote tobacco products, liquor, wine and other intoxicants.

7. No advertisement concerning children's products or services shall be accepted by the broadcaster if—

Advertisement concerning children's products.

(a) it shows that if the children do not buy certain product, they will be inferior to others;

(b) it endangers the safety of the children;

(c) it creates or promotes unhealthy practice.

Prohibition  
on  
advertisement  
degrading  
other  
advertisement.

**8. No advertisement shall—**

- (a) contain disparaging or derogatory reference to any other product or service including insinuation in any form;
- (b) imitate any advertisement to mislead consumer;
- (c) use indecent language or pictures to attract attention.

Advertisement  
of a medicine.

**9. No advertisement of any medicine shall—**

- (a) contain a claim to cure any ailment or ill-health through traditional system of herbal medicine;
- (b) claim that it will promote sexual virility or be effective in treating impotency;
- (c) offer any medical product for the purpose of weight reduction and for slimming process.

Provided that such advertisement shall be permitted to be broadcast after verification of the product and after obtaining certificate from the Authority or any other agency declared by the Central Government competent to do so.

Prohibition on  
certain  
advertisement.

**10. There shall be prohibition on the advertisement of the following items and services:-**

- (a) chit funds;
- (b) lotteries;
- (c) betting tips for horse racing;
- (d) gambling or any game of chance.

Establishment  
of  
Advertisement  
Regulatory  
Authority.

**11. (1) The Central Government shall, by notification in the official Gazette establish an authority to be known as Advertisement Regulatory Authority to oversee the whole issue of advertising business in the country within the scope of this Act.**

**(2) The Authority shall have its headquarter at Lucknow.**

**(3) The Authority shall have a Chairperson who shall be a prominent social activist and such other Members as the Central Government may appoint in this behalf:**

**Provided that the number of members of the Authority shall not be more than ten:**

**Provided further that women social activists shall represent half of the Members of the Authority.**

**(4) The terms and conditions of service of the Chairperson and the Members shall be such as may be prescribed.**

**(5) The Central Government shall provide such number of officers and staff as may be necessary to enable the authority to exercise its functions and powers as may be necessary.**

Functions of  
the Authority.

**12. (1) The Authority shall ensure that—**

- (a) the advertiser or his agent shall advertise accurate information such as weight, quality, price, etc. of any product or service;
- (b) if any warning or precaution is attached with any product, the same shall be shown prominently;
- (c) the advertiser or his agent shall produce evidence if required to substantiate any claim shown by them in the advertisement in such manner as may be prescribed.

**(2) The Authority shall have powers to call for proof of any claim of an advertisement and get it verified or examined to its satisfaction in such manner as may be prescribed.**

(3) If on examination, under sub-section (2), the claim turns out to be false against what has been advertised by the advertiser or his agent, action shall be initiated against the advertiser under this Act.

13. (1) The Authority shall ensure that there is a limit to the number of advertisements that shall be shown in a programme.

Limit on the advertisement in a programme.

(2) The Authority shall, in such manner as may be prescribed, formulate a scheme showing the number of advertisements or the time that will be available for advertisements in a programme:

Provided that the total time of advertisements in a programme of one-hour duration shall not be more than ten minutes.

14. The Central Government shall provide, after due appropriation made by Parliament by law in this behalf, funds for the purposes of this Act.

Central Government to provide funds.

15. Whoever violates the provisions of this Act shall be punished with imprisonment for a term, which may extend to three years or with fine, which may extend to ten lakh rupees, or with both.

Penalty.

16. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for time being in force on the subject and save as aforesaid, the provisions of the Act shall be in addition to and not in derogation of any other law for the time in force.

Overriding effect of the Act.

17. The Central Government may by notification in the Official Gazette make rules to carry out the provisions of this Act.

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

In this era of competition and open market, advertisement of a product is necessary to educate the people about the product and its benefits. For this, advertisement has to be attractive and informative to the extent of accuracy about the product. But a trend is now picking up to make the advertisement attractive at the cost of vulgarity, obscenity and at times immorality. In order to get attention, women are being shown in scanty clothes in the advertisements of those products or services which are not even remotely connected with them. Children are shown performing daring acts after consuming products of certain brands, which are occasionally imitated by them leading to disastrous consequences. At times schemes are sponsored in the advertisement encouraging children to buy certain products claiming that those who buy more of such products would be more intelligent and powerful. These are mostly misleading claims having impact on the impressionable minds of the children. Advertisements of liquor are although prohibited but are being shown in surrogate manner by replacing liquor by mineral water, soda or apple juice. These advertisements are using the same kind of bottles, labels, etc. and circumventing the law.

Several advertisements of medicines are claiming a lot of things from weight reduction to hair growth without any proof of their efficacy in the name of traditional herbal drugs. These drugs are not subject to any laboratory test on the plea that these are based on age-old traditional medicine system. A lot of people are minting money and duping public at large by making tall claims through advertisements.

Similarly, if a programme gains high TRP rating, then that programme is flooded with a number of advertisements so much so that in some cases the total time taken by the advertisements equals the total telecast time of the programme.

It is high time that some regulatory mechanism be put in place to control the meace of present day advertisement. There is an urgent need to regulate the advertisement sector to save morality and decency and provide protection to public at large from the misleading advertisements or being embarrassed before the family.

Hence this Bill.

KALRAJ MISHRA

## FINANCIAL MEMORANDUM

Clause 11 of the Bill provides that there shall be an Advertisement Regulatory Authority to regulate the whole gamut of advertisement business in the country. Clause 14 provides that Central Government shall provide funds for the purposes of the Bill. It is estimated that a recurring expenditure of Rs. five crores may be involved from the Consolidated Fund of India.

A non-recurring expenditure of Rs. fifty lakhs may also be involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to details only, the delegation of legislative power is of a normal character.



## VII

## BILL NO. L OF 2005

*A Bill further to amend the Indian Evidence Act, 1872.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,  
and com-  
mencement.

1. (1) This Act may be called the Indian Evidence (Amendment) Act, 2005.

(2) It shall come into force at once.

Insertion of  
new section  
114B.

2. In the Evidence Act, 1872, after section 114A, the following section shall be inserted, 1 of 1872.  
namely:—

Presumption  
as to death  
while in Police  
custody.

"114B. In a prosecution for culpable homicide or murder, as the case may be, of a person by a police officer the court may presume that the death was caused when that person was in the custody of the police, by the police officer having custody of that person during that period after taking into account all the relevant circumstances and facts unless otherwise proved by that police officer."

## STATEMENT OF OBJECTS AND REASONS

Custodial violence leading to injuries, rape or deaths of suspects or accused has become very common in our country. Of late, there is sudden spurt in the incidents of custodial deaths. The courts while deciding cases of custodial deaths have been passing strictures against the police and awarding compensation to the families of the deceased. The Human Rights Commission in its Reports has also been referring to custodial deaths and expressing concern over their increasing number. The Commission, in fact, has written to all the States and Union Territories making it obligatory for them to report every incident of custodial death to the Commission within 24 hours failing which the Commission will be free to conclude adverse. But, even after all these observations and developments, the incidents of custodial deaths are increasing unabated and a large number of them go unreported. It is no secret that while in police custody all kinds of third degree methods are used by police officers to extract information from the accused which, many a time, lead to custodial death. The courts have issued several guidelines for police in order to prevent the custodial death, but they are observed more in breach. In case of prosecution of police in custodial deaths, it is very difficult to find any eye-witness. Besides, any other policeman never comes forward to give evidence against his fellow policeman accused of custodial death. Therefore, it is very difficult to implicate a policeman in the absence of evidence. Due to lack of action on these police officers, they have become insensitive and have developed a sense of impunity. Under the circumstances, it may be appropriate if the courts while trying a police officer accused of custodial death should presume that it has been caused by the police officer and the onus of proving innocent is fixed on the police officer.

The Law Commission in its 113th and 185th Reports has recommended changes in the law with regard to causing bodily injury to a person while in police custody. But, nothing has been done in this regard so far and the situation has been allowed to deteriorate. Therefore, a beginning is necessary at least in cases of custodial deaths.

It is, therefore, necessary that changes in the Indian Evidence Act are made regarding presumption by court if the death of a person takes place while he was in police custody. Such an amendment will definitely serve as deterrent to the police officer and reduce the incident of custodial deaths.

Hence this Bill.

KALRAJ MISHRA

## VIII

## BILL NO. XLIX OF 2005

*A Bill to provide for regulation of electronic media and for matters connected therewith.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Electronic Media (Regulation) Act, 2005.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) 'Authority' means the Media Regulation Authority of India established under section 3;

(b) 'electronic media' means television network or radio stations, whether owned by the Government or not;

(c) 'prescribed' means prescribed by rules made under this Act.

3. (1) The Central Government shall by notification in the Official Gazette establish an Authority to be known as the Media Regulation Authority of India to regulate the functioning of electronic media.

Establishment  
of Media  
Regulation  
Authority.

**(2) The Authority shall consist of a Chairperson and two other members to be nominated by the Central Government in such manner as may be prescribed.**

**(3) The Chairperson and the Members shall hold office for such term and shall be entitled to such salaries and allowances as may be prescribed.**

**(4) The Central Government shall promote such number of officers and staff to the Authority as may be necessary for carrying out its functions under this Act.**

Prohibition  
on telecast  
and broadcast  
of certain  
matters.

**4. (1) No television network or radio station shall—**

**(i) mislead viewers or listeners by giving incorrect or false information;**

**(ii) give such information which may create hatred among persons following different religions, linguistic groups or persons belonging to various castes;**

**(iii) misquote statements made by any person, especially by those in the Government;**

**(iv) support the actions of terrorist groups or criminals or persons accused of serious crimes with a view to deliberately tarnishing the image of the Government or the political party in power;**

**(v) deliberately downgrade any person with a view to tarnishing his image.**

**(2) Any television network or radio station which violates the provision of sub-section (1) shall be guilty of an offence under the Act.**

Filing of  
Complaint.

**5. (1) Any person who is aggrieved of a wrong information given by any television network or radio station as the case may be, may approach the Authority and file a complaint.**

**(2) On receipt of a complaint or on its own, the Authority shall cause to investigate the complaint and arrive at a decision within a period of one month.**

Cancellation  
of licence.

**6. (1) If the Authority on investigation finds that the facts stated in the complaint are true, the licence issued to the television network or radio station as the case may be, shall stand cancelled forthwith.**

**(2) While investigating a complaint, the Authority shall have the powers of a criminal court.**

**7. The Central Government may, after due appropriation made by Parliament in this behalf, pay to the Authority by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.**

Penalty.

**8. The owner or in charge of any television network or radio station, whose licence stands cancelled under section 6, shall be punishable with imprisonment for a term which may extend to ten years and with a fine of rupees ten lakhs.**

Power to  
make rules.

**9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.**

### STATEMENT OF OBJECTS AND REASONS

With the advent of cable television, there has been a mushroom growth of television channels. Similar is the case of radio channels. At present, there is no mechanism to regulate the functioning of such channels. Many of these channels mislead the viewers by giving false information and by withholding correct information. They do this deliberately with a view to tarnishing the image of the Government or the party in power. Many of them also support actions of criminals accused of serious crimes.

It is high time steps are taken to put an end to this sort of practice.

Hence this Bill.

C. PERUMAL

### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for establishment of the Media Regulation Authority of India. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India relating to salaries and allowances of the members of the proposed Authority and other administrative expenditure. It is estimated that annual recurring expenditure of rupees one crore will be involved.

A non-recurring expenditure of about rupees fifty lakh will also be involved.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The matters of rules that will be made will be of routine nature and as such the delegation of legislative power is of a normal character.

**IX****BILL NO. VIII OF 2005**

*A Bill to provide for the prohibition of audio and video piracy of films and their songs produced by film industry which causes huge losses to the film makers and States lose entertainment tax and for providing deterrent punishment to the pirates, broadcasters and exhibitors of pirated films and their songs and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Fifty-sixth year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Audio and Video Piracy of Films (Prohibition and Miscellaneous Provisions) Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(b) "audio piracy" means copying or recording of songs of a movie or from album of a singer on audio tape or compact disc or microchip or by any other means illegally for the purpose of sale or circulation for deriving monetary benefits therefrom;

(c) "Inspector" means an Inspector appointed under this Act;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "Video piracy" means illegally copying or recording of a movie or films on a video tape or compact disc or microchip or by any other means for the purpose of sale or circulation for deriving monetary benefits therefrom.

37 of 1952.  
14 of 1957.  
7 of 1995.

3. (1) Notwithstanding anything contained in the Cinematograph Act, 1952, the Copyright Act, 1957, the Cable Television Network (Regulation) Act, 1995 or any other law for the time being in force the audio and video piracy of any movie or film produced in the country by the film industry is hereby prohibited.

Prohibition of Audio and Video piracy of films and songs.

(2) Whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

(3) The provisions of this Act shall also apply to the pirated audio and video cassettes or compact discs or microchips of any movie produced in India irrespective of the fact that piracy took place in any foreign country and from there smuggled into the country.

7 of 1995.

4. (1) Notwithstanding anything contained in the Cable Television Network (Regulation) Act, 1995 or any other law for the time being in force the exhibition or showing of a pirated film or movie or music album by any cable operator is hereby prohibited.

Prohibition to exhibit and circulate pirated film on Cable Television by operators and dealers.

(2) No audio/video dealer or library by whatever name called shall circulate or broadcast or make available to any member of the general public any pirated cassette or compact disc or microchip of a music album or film for personal viewing or listening or broadcasting by such a member at home or anywhere else.

(3) Whoever contravenes the provisions of sub-section (1) and (2) shall be guilty of an offence under this Act.

5. (1) It shall be the duty of the appropriate Government to monitor and ensure proper implementation of the provisions of this Act.

Appropriate Government to monitor implementation of the Act.

(2) For the purposes of sub-section (1) the appropriate Government shall take following steps, namely,—

(a) appoint such number of Inspectors as it may deem necessary for the purposes of this Act with the powers to enter, search and seizure in such manner as may be prescribed;

(b) constitute such number of Special Cells of local Police as it may deem necessary to deal with the offences of audio and video piracy within its territorial jurisdiction headed by a Police Officer not below the rank of Deputy Superintendent;

(c) ensure close coordination with the Inspectors appointed under sub-section (1) and special cells of local Police appointed under sub-section (2);

(d) prepare an annual report on the achievements on prevention of audio and video piracy within its territorial jurisdiction and cause the report to be laid before the Parliament or the Legislature of the State, as the case may be.

Whoever,

Penalty.

6. (a) contravenes the provisions of section 3 shall be punishable with imprisonment for a term which shall not be less than seven years but may extend to ten years and also with fine which shall not be less than ten lakh rupees but may extend to twenty lakh rupees;

(b) contravenes the provisions of section 4 shall be punishable with imprisonment for a term which shall not be less than four years but may extend to seven years and also with a fine which shall not be less than four lakh rupees but may extend to ten lakh rupees.

Offence by  
companies.

7. Where a person committing an offence under this Act is a company or other body corporate or an association of persons, whether incorporated or not, every person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Act to have  
overriding  
effect.

8. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Power to  
make rules.

9. The Central government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.



### STATEMENT OF OBJECTS AND REASONS

Films are common means of entertainment and also a cheap option for the common man to entertain him for three hours in a Cinema hall. There are lakhs of Cinema halls screening movies and our country produces the largest number of films in the globe every year. Film industry provides jobs and livelihood to millions of people in one way or the other, directly as well as indirectly. Mumbai, Chennai, Hyderabad, Bangalore, Kolkata, Noida and other cities have become popular centres for producing Hindi and other regional language movies. Many a time it takes years to produce a good movie that too after spending crores of rupees and very hard work by the unit. The producer spends the money taken from Banks, etc. as loan. He also borrows from financiers at a very high premium. The distributors invest a large amount of money expecting windfall for them.

But, unfortunately, the film industry is under threat of video and audio piracy. As soon as the film is released, it is pirated simultaneously either in the country or in a foreign country and circulated to video libraries and cable operators at a premium. The cable operators in order to please their viewers show the film on their local network and the people who view it lose interest in the film and do not turn up to Cinema halls. This causes huge losses to the producers, distributors and cinema hall owners. The Governments of the States who earn entertainment tax from cinema halls on every ticket sold there also lose revenue in the process. The local police which is supposed to check piracy does not give priority to it as a result piracy of films and their songs goes unhindered.

Now the time has come to deal with the menace of audio and video piracy with a heavy hand to save the film industry by providing deterrent punishment and fines for the pirates, distributors and exhibitors of pirated movies. Hence it has been suggested to have a special Cell of local police to deal with audio and video piracy of films and their songs. It is entirely necessary to save the film industry.

Hence this Bill.

JAYA BACHCHAN

### FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the appointment of Inspectors and creation of Special Cells of local Police for the purposes of the Bill. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees twenty-five crores may involve as recurring expenditure per annum.

A sum of rupees ten crores may also involve as non-recurring expenditure.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

**X****BILL NO. IX OF 2005**

*A Bill to provide for special educational facilities and welfare measures like free and compulsory education including technical and vocational education, hostel facilities, scholarships, gainful employment and such other welfare measures to be undertaken by the State for the girl child born in families living below the poverty line for her development and advancement in life and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Fifty Sixth Year of the Republic of India as follows:—

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Girl Child of Families Living Below Poverty Line (Special Educational Facilities Other Welfare Measures) Act 2005.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(b) "family living below poverty line" means a family enumerated as living below poverty line either by the Planning Commission or by the appropriate Government or whose monthly income from all sources is not more than one thousand rupees, as the case may be;

(c) "girl child" means a female human being below the age of eighteen years;

(d) "prescribed" means prescribed by rules made under this Act.

3. The appropriate Government shall provide to every girl child of families living below the poverty line following special educational facilities, namely:—

Special educational facilities for girl child of families below poverty line.

(a) free compulsory education including medical and technical education upto such level as the girl child desires to pursue;

(b) free vocational training including Computer training of her choice;

(c) free necessary study material like books, notebooks, stationery, uniforms including shoes and socks, other instruments;

(d) free hostel facilities wherever necessary;

(e) scholarships in deserving cases;

(f) free nutritious meals and medical care wherever necessary;

(g) such other facilities as may be prescribed.

4. The appropriate Government shall,—

Welfare measures.

(i) Give one time fixed deposit or Security Bond of the value of note less than twenty thousand rupees to every girl child of families living below poverty line in such manner as may be prescribed;

(ii) ensure that the fixed deposit or Security Bond, as the case may be shall mature when the girl child attains the age of majority and her marriage is fixed or she decides to start her vocational career, as the case may be, and payment shall be made to her in such manner as may be prescribed;

(iii) provide gainful employment after completion of education or training in any vocation by the girl child;

(iv) provide her necessary guidance and finances in case the girl child desires to start her own venture of self employment;

(v) undertake such other welfare measures for the girl child as it may deem necessary for the overall development of the girl child.

5. The appropriate Government shall open such number of schools, colleges, ITIs and other Vocational Centres, Computer Training Institutes etc. as it may deem necessary for carrying out the purposes of this Act.

Appropriate Government to provide necessary infrastructure.

6. The Central Government shall, after due appropriation made by Parliament by law in this behalf, from time to time, make available to the States the requisite funds for the implementation of the provisions of this Act.

Central Government to provide requisite funds.

7. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time

Act to have overriding effect.

being in force but save as aforesaid, provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force giving benefits to the girl child covered under this Act.

Power to  
make rules.

**8.** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

### STATEMENT OF OBJECTS AND REASONS

The latest census of 2001 has revealed a stunning fact of declining ratio of girls vis-à-vis boys in the country, more alarmingly in the Northern and Western parts of the country. That is because girl child is most unwanted in many families. The girl child is neglected one way or the other and the condition of girl child born in families living below the poverty line is more awful and pathetic. She is born and grows in abject poverty in hutment with thatched roof or in a slum with inhuman living conditions or on the pavements without basic necessities of life, always hand to mouth, struggling for two square meals, without even clothes to cover her body. Necessities of hard life force her to become rag picker, petty thief or criminal and finally many of them end up in brothels. She can be seen begging at the crossings of the national capital, other mega cities and elsewhere. They work as housemaid doing household chores at a tender age which usually is the age when they are supposed to go to school but they do jobs which fetch them meager wages. She is exploited throughout her life, and many a time physically right from her childhood. School education, good vocation and good and carefree life are daydreams for such unfortunate and hapless girls born in families living below poverty line.

Ours is a welfare State and our Constitution has pledged that there will be no discrimination on the basis of sex, religion, caste or creed and there will be equality of opportunities for all the citizens in the country. Hence the Central and State Governments have to come forward for the proper development of hapless girl child born in families living below poverty line through special educational facilities and other welfare measures.

Hence this Bill.

JAYA BACHCHAN

### FINANCIAL MEMORANDUM

Clause 6 of the Bill provides that Central Government shall make available to the States the requisite funds for the implementation of the provisions of this Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees two thousand crore may involve as recurring expenditure per annum.

Non-recurring expenditure to the tune of five thousand crore may also involve.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

## XI

## BILL NO. LX OF 2005

*A Bill to provide for the compulsory payment of old age allowance to the farmers and village artisans like weavers, potters, cobblers, carpenters, etc. by the Central and State Governments who are unable to maintain themselves in their old age due to various reasons and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Farmers and Village Artisans (Old Age Allowance) Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a state the Government of that State and in other cases the Central Government;

(b) "artisan" means a skilled workman or craftsman of the village including the weavers, potters, cobblers, carpenters, etc. and those landless workers who work on fields, orchards and rear the livestock, poultry, etc. in rural areas;

(c) "farmer means any person" who owns cultivable land and tills it to grow crops or orchard or who is engaged in rearing animals, poultry farming, etc. and includes the spouse of the farmer;

(d) "old age" means where the farmer or artisan, as the case may be, has attained the age of sixty years or more; and

(e) "prescribed" means prescribed by rules made under this Act.

3. (1) Notwithstanding anything contained in any other law for the time being in force the appropriate Government shall, on an application made in the prescribed form, pay old age allowance on monthly basis to every farmer and village artisan at such rate as may be prescribed:

Payment of old age allowance to farmers and village artisans.

Provided that the old age allowance payable under this Act shall not be less than one thousand rupees per month.

(2) The old age allowance payable under sub section (1) shall be subject to alteration on the basis of prevailing price index as may be determined by the Central Government in consultation with the Governments of the States from time to time.

(3) The old age allowance payable under this Act shall be paid to the farmers and artisans by the appropriate Government through such authority and in such manner as may be prescribed.

(4) Every farmer and artisan, as the case may be, who is eligible for old age allowance under this Act but who is in receipt of pension from the appropriate Government other than the prescribed under this Act or who is having adequate source of income shall forfeit his right to claim old age allowance under this Act.

4. The Central Government shall, from time to time, after due appropriation made by law by Parliament in this behalf, provide adequate funds at the disposal of the States and Union Territories to meet the expenditure incurred by them for the purposes of this Act.

Central Government to provide necessary funds.

5. (1) Every State Government and Union Territory Administration, after the end of each financial year shall submit, as soon as may be, a Status Report about the implementation of the provisions of this Act within its territorial jurisdiction to the Central Government in such manner, as may be prescribed.

Status Reports.

(2) The Central Government shall cause the Reports received under sub-section (1) along with action taken report laid before each House of Parliament.

6. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any other instrument having effect by virtue of any law other than this Act, but save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to farmers and artisans of the villages.

Overriding effect of the Act.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

### STATEMENT OF OBJECTS AND REASONS

There are crores of old farmers and millions of village artisans like the weavers, potters, cobblers, carpenters, landless labourers and others in the villages who are not only the lifeline of our villages but also play a significant role in the economy of not only the rural India but the nation as a whole. They are the ones who have sacrificed their youth in the villages tilling fields, weaving handloom cloth, making earthen wares, shoes and other leather goods, wooden things used in agriculture like plough, etc. and furniture for rural households, working on the fields of others and growing food and rearing livestock, poultry, dairying, etc. and have now become old. Their number is increasing manifold due to increase in life expectancy of the people in the country. The old farmers and village artisans face innumerable problems and hardships at the fag end of their lives. Their children due to economic and other reasons do not support them and leave them to fend for themselves. Many a time they have to lead a miserable life in the absence of permanent source of income or due to chronic ailment or infirmity and are left uncared for.

Ours being a welfare State, the Central and State Governments are bound to provide social security to the old farmers and village artisans by way of giving monthly old age allowance to them for their subsistence and leading a good life. No doubt some State Governments are giving old age pension to senior citizens including farmers and others but that is very meagre and it has not covered all the villages of the country. Hence it has become necessary to provide for monthly old age allowance for the farmers and village artisans to enable them to maintain their living in old age. They should be given a minimum of one thousand rupees every month for this purpose which should be revised with the rise in price index. Since the financial health of the States is not good the Central Government should bear the burden towards this welfare measure.

Hence this Bill.

V. NARAYANASAMY

### FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that Central Government shall provide adequate funds for the implementation of the provisions of the Bill by the States and Union Territories. The Bill if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five thousand crores may involve as recurring expenditure per annum.

No non-recurring expenditure is likely to be involved.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill gives power to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.



**XII****BILL NO. LIX OF 2005**

*A Bill to provide for the compulsory priority bulk supply of electricity to rural parts of the country for the promotion of cottage and village industries and for lighting the households and also to the agricultural sector so as to boost agricultural production and employment generation in the villages and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Compulsory and Priority Electricity Supply to Rural Areas, Agriculture and Cottage Industries Sectors Act, 2005.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means in the case of a State the Government of that State and in other cases the Central Government;

(b) “prescribed” means prescribed by rules made under this Act;

(c) words and expressions used but not defined in this Act but defined in the Electricity Act, 2003 shall have the same meaning assigned to them in that Act.

36 of 2003.

Priority supply of electricity to agriculture, rural habitation and village industries.

3. (1) Notwithstanding anything contained in the Electricity Act, 2003 or any other law for the time being in force the appropriate Government shall ensure a minimum of sixty per cent of the total electricity generated or received from the Central Pool or any other source within its territorial jurisdiction including the electricity generated by the private sector shall be supplied to the agriculture sector, rural habitations and village and cottage industries.

36 of 2003.

(2) For the purposes of Sub-Section (1) the appropriate Government shall,—

(a) allocate the electricity to the rural areas in such manner as may be prescribed;

(b) provide minimum single point light connection in every household in each village;

(c) supply electricity free of cost to every house or hut belonging to Scheduled Castes, Scheduled Tribes and families living below poverty line; and

(d) take such other measures as it may deem necessary for the purposes of this Act.

Annual Report.

4. The appropriate Government shall prepare every year, in such form and at such time as may be prescribed, an annual report giving a true and full account of the implementation of this Act and the Government shall cause the same to be laid before each House of Parliament or the Legislature of the State, as the case may be.

Overriding effect of the Act.

5. The provisions of this Act and of any rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to supply of electricity within the country.

Power to make rules.

6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

### STATEMENT OF OBJECTS AND REASONS

It has rightly been said that India lives in villages because more than seventy per cent of its population lives in villages and is engaged in agriculture or its allied occupations like horticulture, animal husbandry farming rearing of animals, poultry, dairy, cultivating vegetables, floriculture etc. and village industries of various kinds including cottage industries and handicrafts which in one way or the other require electricity. But it is a said fact that a major part of the rural India still lives in darkness during the night except getting the moonlight that too for a short period. The villages are either yet to be electrified or they hardly get needed electricity supply. Agriculture is dependent on monsoon but wherever with the efforts of farmers tubewells have been installed they do not function in the absence of regular power supply. When any unemployed young man installs a flour mill, oil mill or any such Small Scale Industrial Unit, he is unable to run it without electricity supply. The village artisan can not modernize his working tools as there is no electricity supply which forces him to time consuming and costly technology thereby stalling his prosperity and progress.

The simple reason for the backwardness of villages is that the major chunk of power generated in the country is consumed in urban areas which means thirty per cent urban population is consuming almost entire power resulting in disparities, imbalance and backwardness of the villages. Hence for the progress and prosperity of the rural India this disparity has to be removed. The major portion of power has to be diverted to rural India on the basis of ratio of the population. This will not only lighten the rural India but will also boost agriculture which is the backbone of our economy. The electricity provided to village and cottage industries will generate more employment opportunities in the villages which will halt the exodus or mad rush towards the cities.

Hence this Bill.

V. NARAYANASAMY

### FINANCIAL MEMORANDUM

Sub-clause (2) (c) of clause 3 of the Bill provides that the appropriate Government shall supply electricity free of cost to every household belonging to Scheduled Castes and Scheduled Tribes and families living below poverty line. The Bill if enacted and brought into force will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crores may involve as recurring expenditure per annum.

No non-recurring expenditure is likely to be involved.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

**XIII****BILL NO. LXIX OF 2005**

*A Bill to provide for the reservation of seats in all educational institutions including the medical, technical and professional institutes and colleges for the persons belonging to other backward classes so as to ensure their proportional representation in such educational institutions and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Other Backward Classes Proportional Representation through Reservation in Educational Institutions Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires—

Definitions.

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

27 of 1993.

(b) "backward classes" shall have the same meaning as is assigned to it under clause (a) of Section 2 of the National Commission for Backward Classes Act, 1993;

(c) "educational institutions" include all colleges, medical, engineering and other professional colleges owned by the appropriate Government or receiving aid from that Government or have been recognized by the appropriate Government;

(d) "prescribed" means prescribed by rules made under this Act.

3. (1) Notwithstanding anything contained in any other law for the time being in force, the appropriate Government shall, by notification in the Official Gazette, reserve seats for students belonging to other backward classes in all educational institutions within its territorial jurisdiction, in such manner as may be prescribed.

Reservation  
in educational  
institutions  
for other  
backward  
classes.

(2) The number of seats reserved under sub-section (1) in any educational institution in a Union Territory or in a State for other Backward Classes, as the case may be, shall bear the same proportion to the total number of seats in that educational institution as the respective population of the other backward classes bears to the total population of that Union Territory or of that State, as the case may be.

4. Any educational institution contravening the provisions of section 3 shall be de-recognised and financial aid shall be stopped forthwith by the appropriate Government in such manner as may be prescribed.

Penalty.

5. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or anything contained in any judgment of any court of law contrary to it, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to other backward classes.

Act to have  
over-riding  
effect.

6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make  
rules.

## STATEMENT OF OBJECTS AND REASONS

The preamble to the Constitution of India assures equality of opportunity and of status, socio-economic justice to all the citizens. Article 38 of the Constitution mandates the State that it shall strive to promote the welfare of the people by securing and protecting effective social order rendering socio-economic and political justice. It is in this constitutional background it is true, that after more than five decades of Independence there has been considerable expansion in educational facilities to realize the goal of universalization of education and literacy rate too has improved a lot but considerable size of our population still remains illiterate or those who have the talent cannot afford to get the desired education. Majority of such people belong to Other Backward Classes (OBCs). Though the backward classes form more than 54 per cent of the population of the country but their representation in higher education and more so in medical, engineering and other professional courses like Information Technology, Mass Communication, Aviation, etc. is very very low. This is because majority of them are poor and cannot afford expenditure on education. Hence it has become necessary that seats be reserved for children of OBCs in all educational institutions as per their population to protect the education and economic interests of OBCs who too are exploited lot of the society.

Hence this Bill.

V. NARAYANASAMY

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

**XIV****BILL NO. LXIV OF 2005**

*A Bill to provide for the educational facilities at par with the normal children and for the care and welfare measures to be undertaken by the Central and State Governments for the children afflicted with cerebral palsy or with mental retardation and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Children with Cerebral Palsy or Mental Retardation (Care, Educational Facilities and Welfare) Act, 2005.

Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

## Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(b) "child" means a boy or girl who is below the age of eighteen years;

(c) "child with cerebral palsy" means a child suffering from a disease which makes movement of such child jerky and uncontrollable due to damage of brain before or at birth of such a child;

(d) "mental retardation" means where mental development of a child remains very slow in comparison to a normal child;

(e) "national policy" means the National Policy for the Children with Cerebral Palsy and Mental Retardation formulated under section 3;

(f) "prescribed" means prescribed by rules made under this Act.

National  
Policy for  
the children  
with Cerebral  
Palsy or  
mental  
retardation.

3. The Central Government shall, as soon as may be, by notification in the Official Gazette, formulate a National Policy for the Children with Cerebral Palsy and Mental Retardation to secure proper care, education and welfare measures and other rights for the children with cerebral palsy or mental retardation to ensure their proper growth and a secure future for such hapless children.

District wise  
register of  
children with  
cerebral palsy  
and mental  
retardation.

4. (1) The appropriate Government shall maintain a district wise register of children with cerebral palsy or mental retardation.

(2) The register shall be maintained in such manner and shall contain such particulars and information as may be prescribed.

School  
facilities.

5. (1) Notwithstanding anything contained in any other law for the time being in force, the appropriate Government shall ensure that, as far as practicable, the children with mental retardation are given education in schools, Government as well as private schools, meant for normal children for their proper development.

(2) For the children having cerebral palsy the appropriate Government shall open sufficient number of special schools, Technical education institutes and training Centres for imparting education and training to such children.

(3) It shall be the duty of every parent, guardian or head of the family to send every child with Cerebral Palsy or Mental Retardation to normal School or Special School or Technical education institute, as the case may be, for getting education or technical training as per his calibre.

Special  
Children  
homes.

6. (1) The appropriate Government shall establish and maintain either by itself or in association with Non-Government Voluntary Organisations, Special Children Homes at conspicuous places with its territorial jurisdiction for the reception of the children with Cerebral palsy or mental retardation for their care, protection, treatment, education, training, development and rehabilitation.

(2) Every child referred to in sub-section (1) shall be received and admitted in the Special Children Homes in such manner as may be prescribed.

(3) Every child admitted to the Special Children Homes shall have the right to,—

(a) board and lodging free of cost;



- (b) proper means of living, care, protection and security;
- (c) basic education and training and means for free and fair development of personality, playing and entertainment;
- (d) enjoyment of highest attainable standard of health, nutrition, medicare, treatment for illness and rehabilitation and;
- (e) such other facilities as may be prescribed.

7. The appropriate Government shall ensure effective linkages and coordination between various Governmental, corporate and other community agencies for facilitating the rehabilitation and social reintegration of the children covered under this Act.

Linkages and Coordination.

8. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate requisite funds for carrying out the purposes of the Act.

Central Government to provide requisite funds.

9. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent contained therewith in any other law for the time being in force but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the children covered under this Act.

Act to have overriding effect.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purpose of this Act.

Power to make rules.

### STATEMENT OF OBJECTS AND REASONS

Quite a large number of children in our Country are born with cerebral palsy and become spastic. Equally large number of children suffer with mental retardation. There are various socio-economic and genetic reasons for such children being spastic or mentally retarded but unfortunately their number is increasing rapidly. Such children have a bleak future. They remain dependent on others and their parents are a worried lot mainly for their future. They remain worried as to who will take care of their dear child after their death as such they remain in tension. However, of late many NGOs working for spastic and mentally retarded children have proved that if sincere efforts are made, such children too can become independent and take care of themselves. Such children have also shown their creativeness which if promoted can become the source of their livelihood. Children with mental retardation should be given education in normal schools so as to normalize them with normal children. For spastic children special schools with special facilities should be established for imparting education and training. Those parents who are unable to take care of such hapless children may put their dear ones in special children Homes to be opened by the Government. These steps will certainly help the spastic and mentally retarded children to stand up of their own.

Hence this Bill.

R. K. ANAND

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### FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the opening of Special Schools and Technical Education Institutes. Clause 6 provides for the establishment of Special Children Homes. Clause 8 provides that Central Government shall provide adequate requisite funds for carrying out the purposes of the Bill. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five hundred crores may involve as recurring expenditure per annum.

A sum of rupees one thousand crores may also involve as non recurring expenditure.

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### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will related to matters of details only.

The delegation of legislative power is of normal character.

## XV

## BILL NO. LXIII OF 2005

*A Bill to provide for one time compensation, monthly financial assistance and rehabilitation through employment and other means for the dependents of the victims of Naxalite, Maoist and other form of terrorism who are killed in various parts of the country and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Dependents of Victims of Naxalite and other Terrorism (Compensation, Rehabilitation and Miscellaneous Provisions) Act, 2005.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases the Central Government;

(b) "dependent of Victim" includes spouse, children and aged parents who were dependent on the victim before his death;

(c) "prescribed" means prescribed by rules made under this Act;

(d) words and expressions used but not defined in this Act but defined in the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973 and the Unlawful Activities (Prevention) Act, 1967 shall have the same meaning assigned to them in those Acts.

45 of 1860.  
2 of 1974.  
37 of 1967.

Compensation to the dependents of persons killed by naxalites or terrorists.

**3. Notwithstanding anything contained in any other law for the time being in force, the next of the kin or dependent of any innocent and law abiding citizen who is killed by naxalites, maoists or any other terrorist group, by whatever name known or called, shall be paid by the appropriate Government,—**

(a) an *ex-gratia* grant in the form of compensation of such amount which shall not be less than three lakh rupees in such manner as may be prescribed; and

(b) financial assistance at the rate of three thousand rupees per mensem.

Employment provision for dependent.

**4. Where the citizens killed in Naxalite, Maoist or other act of terrorism, was the sole earning member of the family the appropriate Government shall provide suitable employment to one eligible dependent member of the family.**

Compensation for victim surviving naxalite or other terrorist attack.

**5. Where a person survives the Naxalite, Maoist or any other terrorists attack on him but is permanently incapacitated, the appropriate Government shall,—**

(a) bear the full costs of his medical treatment; and

(b) pay an *ex-gratia* grant as compensation of not less than one lakh rupees in such manner as may be prescribed.

Miscellaneous provisions.

**6. (1) Where any family loses the dwelling unit due to torching or bombing by the naxalites, maoists or other terrorists, the appropriate Government shall provide a dwelling unit to such family in such manner as may be prescribed.**

**(2) Where the livestock is eliminated or crop is destroyed due to terrorist attack, the appropriate Government shall pay appropriate compensation to the owner of the livestock or the crop, as the case may be.**

**(3) Where the business establishment is destroyed or damaged by naxalites, maoists or other terrorists, the appropriate Government shall pay such compensation to the owner of the establishment as may be prescribed.**

**(4) The appropriate Government may, if it deems fit and necessary, promote village level security *Samiti* or team of volunteers for the protection of their village from the attacks of Naxalites and other terrorists and provide them with necessary weapons and ammunition from time to time with such terms and conditions as may be prescribed.**

Central Government to provide requisite funds.

**7. The Central Government shall provide requisite funds, after due appropriation made by Parliament by law in this behalf from time to time, to the States affected by Naxalite, Maoist and other terrorists for carrying out the purposes of this Act.**

Power to give directions.

**8. The Central Government may give such directions to any State Government as may appear to the Central Government to be necessary for carrying into execution in the State of the provisions of this Act or of any rules made thereunder.**

Act to have overriding effect.

**9. The provisions of this Act and of any rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.**

Powers to make rules.

**10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.**

### STATEMENT OF OBJECTS AND REASONS

The State of Jharkhand, Andhra Pradesh, Chhattisgarh, Bihar, Orissa, Maharashtra, Uttar Pradesh, Madhya Pradesh, West Bengal, Karnataka and Tamil Nadu are grappling with Naxalite violence which is being spearheaded by groups who identify themselves under different nomenclatures such as Naxalites Peoples War Group, Maoists, Leninist-Maoist and so on and so forth. Jammu and Kashmir is affected by cross border terrorism. These terrorists groups kill thousands of innocent people, men, women and children—every year—houses and shops are torched or blown up, crops are destroyed or damaged. Innocent persons are kidnapped for ransom, girls and women are raped at gun point and illegal taxes are collected from the people. People do not venture out of their houses in the evening and nights. In many areas the terrorist outfits virtually run parallel Governments. Though thousands of people are killed in Naxal and other violence but the victims are either not compensated at all or even if they are given compensation it is too meagre. In a democratic set up like ours it is the duty of the State to protect the life and property of its Citizens and if the State fails to protect the life and property of any Citizen, his dependents and he should be duly compensated by the State. Apart from compensation, the dependents should be given employment, compensation for torched or blown up house, crop, business establishment, etc. Though these steps can not bring back the departed ones but it will certainly give relief, sense of security and satisfaction of being looked after by the State to the victims and their dependents.

Hence this Bill.

R.K. ANAND

### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for compensation to the dependents of persons killed by Naxalites or other terrorists. Clause 4 provides for employment provision. Clause 5 provides for compensation for victim surviving Naxalite or other terrorists attack. Clause 7 directs the Central Government to provide requisites funds to States for carrying out the purposes of the Bill. The Bill, if enacted will involved expenditure from the Consolidated Fund of India. At this stage it is not possible to quantify the expenditure but it is estimated that a sum of rupees two hundred crores may involve as recurring expenditure per annum.

No non-recurring expenditure is likely to be involved.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

## XVI

## BILL NO. LXII OF 2005

*A Bill to provide for compulsory promotion of rainwater harvesting through roof top and other conventional methods by every household, business establishments, Government buildings so as to prevent the wastage of rainwater which is purest form of water and recharge the ground water levels so that drinking water is available in abundance and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,  
extent and  
Commencement.

1. (1) This Act may be called the Rainwater (Prevention of Wastage Through Compulsory Harvesting) Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Declaration as  
to expediency  
of control by  
the Union.

2. It is hereby declared that it is expedient in the public interest that the Union should take under its control the preservation and harvesting of rainwater in the country.

Definitions.

3. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(b) "government building" includes the offices of the ministries, departments, public sector enterprises or bodies owned or administered by the Government or autonomous bodies, local self Government bodies and Government employees' residential areas provided by the Government.

(c) "house" means dwelling unit whether *pucca* or semi *pucca*, business establishment like shop, etc. any building whether used for residential purposes, office or trade or business or for any other purpose and by whatever name called;

(d) "prescribed" means prescribed by rules made under this Act.

4. Notwithstanding anything contained in any other law for the time being in force, the appropriate Government shall construct and provide necessary infrastructure for rainwater harvesting in and around the Government buildings owned or maintained by it in such manner as may be prescribed.

Compulsory rainwater harvesting in Government buildings.

5. (1) Notwithstanding anything contained in any other law for the time being in force, every house or the household shall compulsorily adopt roof top rainwater harvesting so as to prevent the wastage of rainwater in such manner as may be prescribed.

Compulsory rainwater harvesting by the households.

(2) It shall be the duty of the head or *Karta* of the house or household to implement the provisions of sub-section (1).

6. It shall be the duty of the appropriate Government to reconstruct or provide conventional water bodies such as well, tank, pond, creek, watersheds and other water bodies to preserve the rainwater so as to recharge the levels of groundwater for the purposes of this Act.

Appropriate Government to provide and protect water bodies.

7. The appropriate Government shall, as soon as may be, prepare an action plan to educate the masses about the technology of roof top rainwater harvesting and associate such Non-Governmental Organisations and other agencies or institutions as it may deem fit for such purposes and provide such infrastructure, and facilities, as may be prescribed.

Appropriate Government to educate the masses about preserving rainwater.

8. The Central Government shall, after due appropriation made by Parliament by law in this behalf, make available requisite and adequate funds available to the States and Union Territories for carrying out the purposes of this Act.

Central Government to provide requisite funds.

9. Whoever contravenes the provisions of this Act shall be punishable with simple imprisonment for a term which may extend to six months or with fine which may extend to one lakh rupees or with both.

Penalty.

10. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force but save aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with the subject matter of this Act.

Act to have overriding effect.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

### STATEMENT OF OBJECTS AND REASONS

It is estimated that our country receives rainfall of about four thousand billion cubic metres every year and major part of the rainfall goes waste into the sea through rivers of the country. This sheer wastage of rainwater is taking place despite the fact that there is severe shortage of potable water throughout the country. Water is scarce even for drinking and other household purposes in the country as a whole and more so in desert and drought prone areas of the country. Thousands of villages in the country are without any source of drinking water. The situation in urban areas is getting from bad to worse as the level of ground water has gone down to the alarming levels after which the water gets contaminated with dangerous metals and minerals and becomes poisonous and non-usable. The only way to overcome this problem is to prevent the wastage of rainwater by conserving it through harvesting and recharging the ground water levels.

Of late, the people and Central and State Governments have realized the importance of rainwater harvesting and they have started the rainwater harvesting through various programmes like Watershed Management Programme, Artificial Recharge of Ground Water, etc. but these efforts are inadequate. For our own survival we have to make roof top rain water harvesting a movement of masses in which the Government, Corporates and every household will participate and preserve the rainwater which is the purest form of water. This will increase the levels of ground water which we can use for drinking and other purposes. Hence it has become necessary to make roof top rainwater harvesting mandatory throughout the country to overcome the water scarcity which otherwise is going to be worse in the time to come if we do not act now.

Hence this Bill.

R. K. ANAND

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### FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for compulsory rainwater harvesting in Government buildings. Clause 6 provides that the appropriate Government shall provide and protect water bodies. Clause 8 provides that Central Government shall provide requisite funds to the States and Union Territories for carrying out the purposes of the Bill. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crores may involve as recurring expenditure every year.

A non recurring expenditure to the tune of five thousand crore rupees is also likely to be involved from the Consolidated Fund of India.

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### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.



**XVII****BILL NO. LXVI OF 2005***A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called as the Constitution (Amendment) Act, 2005.

Short title  
and  
commencement.

(2) It shall come into force with immediate effect.

2. In the Seventh Schedule to the Constitution,—

Amendment  
of Seventh  
Schedule.

(i) In List II—State list: entry 14 shall be omitted.

(ii) In List III—Concurrent List: after entry 47 the following entry shall be inserted  
namely:—

“48. Agriculture, including agricultural education and research, protection against  
pests and prevention of plant diseases”.

### STATEMENT OF OBJECTS AND REASONS

With about two thirds of our population dependent on agriculture and agriculture sector accounting for 21% the G.D.P., the importance of agriculture in our country cannot be over-emphasized.

At present agriculture is a State subject included in List II of the Seventh Schedule of the Constitution over which the Union Government does not have direct legislative or executive control. Recently, a number of problems have come up in the agriculture sector which have already affected the agricultural produce and in the current year, agriculture has contributed to 1.1% growth. In order to address the agricultural-related problems, it is necessary that uniform measures should be followed for promoting agriculture and also for assisting the agriculturists throughout the country. For this it is essential that agriculture and related problems should be transferred from List II (State List) to List III in the Seventh Schedule of the Constitution.

Hence the Bill.

MANOJ BHATTACHARYA

**XVIII****BILL NO. LXVIII OF 2005**

*A Bill further to amend the Consumer Protection Act, 1986.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Consumer Protection (Amendment) Act, 2005.

Short title and  
commence-  
ment.

(2) It shall come into force at once.

68 of 1986

2. In section 2 of the Consumer Protection Act, 1986 (hereinafter referred to as the principal Act) in clause (c) of sub-section (1)—

Amendment of  
section 2.

(i) in sub-clause (ii) the words “or there is delay in delivery of goods or non-delivery of goods either in full or partly even after lapse of reasonable period” shall be added at the end; and

(ii) in sub-clause (iii) the words “or there is delay in rendering services or non-delivery of goods either in full or partly even after lapse of reasonable period” shall be added at the end.

Amendment of  
section 5.

**3.** In section 5 of the principal Act, in sub-section (1), for the words "at least one meeting", the word "at least six meetings" shall be substituted.

Amendment of  
section 9.

**4.** In section 9 of the principal Act, in clause (a), after the existing proviso, the following proviso shall be added namely:—

"Provided further that in a city having a population of more than five lakh according to the latest census, a separate District Forum shall be established."

**STATEMENT OF OBJECTS AND REASONS**

The Consumer Protection Act was enacted in 1986 to create a greater awareness amongst the consumers about their rights and privileges and to put in place a mechanism which would ensure that the consumers get their money's worth. However the Act seems to be suffering from some inadequacies which prevent the consumer from getting the full benefits of the Act. It is, therefore, proposed to suggest some amendments which would plug the loopholes and make the Act more consumer-friendly.

Hence this Bill.

**MANOJ BHATTACHARYA**

## XIX

## BILL NO. LXXIV OF 2005

*A Bill further to amend the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989*

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title  
and  
commence-  
ment.

1. (1) This Act may be called the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2005.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment  
of the long  
title.

2. In the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, (hereinafter referred to as the principal Act), in the long title, for the words "Scheduled Castes and Scheduled Tribes" the words "Vulnerable Communities" shall be substituted.

Amendment  
of section 1.

3. In section 1 of the principal Act, for the words "Scheduled Castes and Scheduled Tribes" the words "Vulnerable Communities" shall be substituted.

Amendment  
of section 2.

4. In section 2 of the principal Act,

(i) after clause (b) the following clause shall be inserted, namely:—

“(bb) “farmer” means any person and members of the family of such person whose principal means of subsistence comes from agriculture whether they own land or not and irrespective of the caste in which they are born.”

(ii) after clause (e) the following clause shall be inserted, namely:—

‘(ee) “vulnerable communities” includes the Scheduled Castes, Scheduled Tribes, farmers and agricultural workers.’

5. Throughout the principal Act, for the words “Scheduled Castes and Scheduled Tribes” wherever they occur the words “Vulnerable Communities” shall be substituted.

Substitution of  
certain  
expressions in  
the Principal  
Act.

## STATEMENT OF OBJECTS AND REASONS

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 or in short the Atrocities Act was enacted to give protection to vulnerable communities. Incidents of atrocities against the Scheduled Castes and the Scheduled Tribes continue to be reported from states like Uttar Pradesh and Bihar. The Act, therefore, has certainly not outlived its utility. The Act, however, is not comprehensive enough to protect other vulnerable communities like the farmers in most of the States. A number of cases of harrasment of farmers driving them to commit suicide have been reported recently. Further, in a large number of states, cases of misuse of the Prevention of Atrocities Act have been reported by the persons belonging to the creamy layer of the vulnerable communities. In a recent case, the District Magistrate of Malegoan in Maharashtra filed an FIR against the lawyers appearing in his court. In another case a bank official presiding over the auctioning of the land of a debt ridden farmer filed an FIR under section 3 of the said Act against the farmer and his associates. The Prevention of Atrocities Act 1989 has some justification in some areas but it lends itself to misuse in many cases. There is also a tendency in some of the states where the state Governments deliberately use section 3 of the Prevention of Atrocities Act in place of the recently abolished Prevention of Terrorism Act (POTA) so that the charges made against social and economic agitators become non bailable. It is necessary to retain, for some more time, the said Act but it is also necessary to amend this Act so that it becomes more comprehensive and benign.

Hence this Bill.

SHARAD ANANTRAO JOSHI



## XX

## BILL NO. XLV OF 2005

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2005.

(2) It shall come into force with immediate effect.

2. In clause (1) of article 275 of the Constitution, before the existing first proviso, the following provisos shall be added, namely:—

**“Provided that there shall be paid out of the Consolidated Fund of India as Grants in aid of the revenues of a State such capital and recurring sums as may be necessary to enable that State to meet the costs of implementation of various welfare schemes or developmental works undertaken by the State in the larger public interest and if that State is unable to implement such schemes or works, as the case may be, due to severe financial crisis being experienced by the State:**

**Provided further that a sum of rupees fourteen thousand crores shall be allocated as grants in aid of the revenues of the State of Orissa as one time grant and rupees five thousand crores per annum as recurring expenditure and such amount shall be charged on and paid out of the Consolidated Fund of India.**

Short title  
and  
commence-  
ment.

Amendment  
of article  
275.

### STATEMENT OF OBJECTS AND REASONS

Orissa is one of the economically, educationally, industrially and socially backward and underdeveloped State of the Indian Union mainly due to consistent neglect by the Centre. Moreover, nature too has not been kind to the State as many areas are drought prone in the State. KBK districts have become synonymous with drought, hunger and backwardness. The coastal areas are vulnerable to cyclones or super cyclone or even Tsunami. The State is inhabited by tribals and poor people and it is faced with numerous problems such as severe unemployment, lack of industrial development due to poor infrastructure, lack of healthcare facilities resulting in steep increase of various diseases mainly the vector borne diseases like malaria etc., waterborne diseases, T.B., Cancer, AIDS and other diseases. The road network is in bad shape. There is lack of educational facilities. This has resulted in severe poverty in the State. Frequent cyclones and super cyclone of the recent past had hit the economy of the State very hard. Present State Government is doing its level best to turn around the economy of the state and bring prosperity there but this will require huge Central assistance.

The Chief Minister of Orissa had recently demanded a Special Economic Package of rupees 13096/- crores for the implementation of various development projects and welfare schemes for the people of Orissa. Thereafter, special funds to the tune of five thousand crore rupees will be required every year. Article 275 of the Constitution provides for payment of grants in aid of the revenues of various States who are in need of financial assistance for various purposes. To enable the Centre to release funds to Orissa amendment of this article has become necessary.

**Hence this Bill.**

**B. J. PANDA**

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### FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for grants in aid of the revenues of the State facing severe financial crisis. It also provides for one time grant in aid of rupees fourteen thousand crores and five thousand crores rupees as recurring annual expenditure. The Bill, if enacted, will involve this expenditure from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

**XXI****BILL NO. XLIV OF 2005**

*A Bill to provide for the establishment of an autonomous Central Authority to ensure rapid, accelerated and overall development of poor, underdeveloped and backward areas and regions of the country which lag behind in matters of development of economic, social, educational, technical, infrastructural and industrial fields and assure their speedy development in a planned manner and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Underdeveloped and Backward Areas and Regions (Special Provisions for Accelerated Development) Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Short title,  
extent and  
commencement.

## Definitions.

2. In this Act, unless the context otherwise requires:—

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases the Central Government;

(b) "Authority" means the Underdeveloped and Backward Areas and Regions Development Authority established under Section 4;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "underdeveloped and backward areas and regions" means the areas and regions which are economically, socially, educationally and industrially lagging behind from the rest of the country and so declared by Central Government under Section 3.

Notification of underdeveloped and backward areas and regions.

3. The Central Government shall, as soon as may be, but not later than one year from the commencement of this Act, by notification in the Official Gazette, declare such areas and regions of the country as poor, underdeveloped and backward areas and regions, which in its opinion require priority attention to bring them at par with the rest of areas and regions of the country.

Establishment of Underdeveloped and Backward Areas and Regions Development Authority.

4. (1) The Central Government shall, by notification in the Official Gazette, establish an Authority to be known as the Underdeveloped and Backward Areas and Regions Development Authority.

(2) The Authority shall be a body corporate, by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The headquarter of the Authority shall be at Bhubaneswar in the State of Orissa and the authority may, with the consent of the appropriate Government establish offices at other places in the country.

Composition of the Authority.

5. The Authority shall consist of the following members:—

(a) The Prime Minister who shall be the *ex-officio* Chairman of the Authority.

(b) The Deputy Chairman of the Union Planning Commission who shall be the Vice Chairperson of the Authority;

(c) five members of Parliament representing underdeveloped and backward regions of whom three shall be from the Lok Sabha and two from the Rajya Sabha to be nominated by the Presiding Officers of the respective Houses;

(d) ten members to be appointed by the Central Government representing the Planning Commission and Ministries/Departments of Agriculture, Rural Development, Industry, Finance, Railways, Road Transport, Human Resource Development, Power and Water Resources of the Union Government;

(e) not more than five members to be appointed by the Central Government by rotation in the alphabetical order to represent the Governments of the States having the underdeveloped and backward areas and regions.

Procedure to be followed by the Authority.

6. (1) The Authority shall follow such procedure for holding its meetings and the quorum for such meetings shall be such as may be prescribed.

(2) No act or proceeding taken by the Authority under this Act shall be questioned on the ground merely of;—

(a) the existence of any vacancy in, or defect in the Constitution of the Authority, or

(b) any omission, defect or irregularity not affecting the merits of the case.

7. (1) The Authority shall have a Secretariat consisting of such officers, employees and establishment as may be prescribed.

Secretariat of the Authority.

(2) The conditions of service, emoluments and other perks of the officers and employees shall be such as may be determined from time to time for the efficient functioning of the Secretariat of the Authority.

8. The Central Government shall provide, from time to time, after due appropriation made by Parliament by law in this behalf, adequate funds for the developmental works to be undertaken by the Authority and for its administrative expenses.

Funds of the Authority.

9. (1) It shall be the duty of the Authority to undertake such special steps in order to ensure rapid and accelerated development of underdeveloped and backward areas and regions of the country, as it may deem necessary and expedient to do so for the overall development of such areas and regions.

Authority to ensure rapid growth and development of underdeveloped and backward areas and regions.

(2) Without prejudice to the generality of the foregoing provisions, the Authority shall initiate measures for the accelerated development particularly of industrial growth with immunity of investments, infrastructure pertaining to railways, roads, communication network, agriculture, irrigation facilities by implementing watershed projects in a big way and constructing wells, bore wells, canals, ponds, etc., potable water facilities, power projects pertaining to thermal, hydel, solar and wind energies, forests, agro based industries and livestock, poultry, piggery, orchards, cooperatives of milk and other things, cottage and village industries, health services, family welfare, education, network of PDS, Public Distribution System, vocational avenues, tourism and such other activities as the Authority may deem necessary for the overall development of the underdeveloped and backward areas and regions of the country.

10. The appropriate Government shall, for the purposes of this Act, provide the requisite necessary assistance to the Authority in undertakings its developmental work in the areas and regions within the territorial jurisdiction of such Government.

Appropriate Government to provide requisite assistance to the Authority.

11. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty.

Power to remove difficulties.

12. The Authority shall submit an annual report, in such form and in such manner, as may be prescribed, of its activities of development undertaken under this Act to the President of India who shall cause the report to be laid before both the Houses of Parliament along with action taken by Government thereon as soon as it is received.

Annual report of the Authority.

13. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Supplementing provision.

14. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

### STATEMENT OF OBJECTS AND REASONS

It is very awesome that even after more than five decades of independence and implementation of as many as Nine Five Year Plans and the Tenth Five Year Plan being midway of implementation there are many States, areas and regions which are still underdeveloped, backward and afflicted with extreme poverty, hunger and sufferings in the country. The eastern parts of the country particularly Orissa, Bihar, Jharkhand, Eastern Uttar Pradesh, entire North-Eastern region, Chhattisgarh and Tribal areas of Madhya Pradesh in the Central India, Vidarbha, Marathwada, Saurashtra, Kutchh desert and famine prone areas of Rajasthan in the western parts, Telengana, Mehboob Nagar, Rayalseema in Andhra Pradesh and other areas in Southern parts of the country are still most backward. Kalahandi-Bolangir-Koraput (KBK) in Orissa are synonymous with backwardness and hunger. Non development of many areas and regions has given rise to demand for creation of new States. Some new States have already been created whereas the demand for other States like Vidarbha, Gorkhaland, Telengana, Harit Pradesh, Bodoland, etc. is being raised frequently. Though reducing regional imbalance is one of the primary goals of our Five Year Plans but, unfortunately, this imbalance still persists which clearly shows that we have not paid the required attention to the development of such States, areas and region in the right earnest.

So in the larger interest of the country as a whole, it has become necessary to develop such underdeveloped States, areas and regions on priority basis for which special efforts have to be made and necessary steps need to be taken at the national and State levels to secure rapid and accelerated development of such States, areas and regions. For this purpose an autonomous Authority should be established for implementing State, area and region based package programmes for their overall development in coordination with Central and State Governments so as to ensure accelerated development of underdeveloped and backward States, areas and regions in the country.

Hence this Bill.

B. J. PANDA

### FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of Underdeveloped and Backward Areas and Regions Development Authority. Clause 8 provides for the funds of the Authority. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is not possible to assess the actual requirement of funds at this stage but it is estimated that a recurring expenditure to the tune of two thousand crore rupees per annum is likely to be involved.

Non-recurring expenditure of about one hundred crore rupees is also likely to be incurred.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill, which will relate to matters of details only.

The delegation of legislative power is of normal character.

## XXII

## BILL No. XLVIII OF 2005

*A Bill to prohibit unsolicited telephone calls by business promoters or individuals to persons not desirous of receiving such calls and for the protection of individual privacy of citizens and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Unsolicited Telephonic Calls and Protection of Privacy Act, 2005.

Short title,  
extent—and  
commencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires:—

Definitions.

(a) "prescribed" means prescribed by rules made under this Act;

(b) words and expressions used but not defined in this Act but defined in the



Indian Penal Code, 1860, the Indian Telegraph Act, 1885 and the Information Technology Act, 2000 shall have the same meaning as is respectively assigned to them in those Acts.

45 of 1860.  
13 of 1885  
21 of 2000.

Prohibition of making unsolicited telephone calls.

3. (1) The making of unsolicited telephone calls for promoting business interests or for other purposes or for harassment is hereby prohibited.

(2) Whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

Mobile operators not to pass on information of subscribers

4. Notwithstanding anything contained in any other law for the time being in force, the licenced Mobile operators shall not pass on the information of their subscribers to any tele-marketing service provider, Banks, Insurance Companies or such other service provider so as to protect the subscribers from unsolicited telephone calls.

Right to privacy.

5. (1) Every person shall have the right of privacy and to lead and enjoy his personal life without unwarranted infringement thereof and no person shall be deprived of this right except according to procedure established by law for the time being in force.

(2) whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

Restriction on use of cellphone camera.

6. No person shall use a cellular phone having built in camera if it does not produce a sound of minimum sixty-five decibels and flashes a light when used to take a picture of any object or with such other conditions as may be prescribed.

Restrictions of photography violating privacy.

7. Subject to public order, morality and health no person with a view to blackmail the person or for making commercial gains therefrom, shall photograph:—

(a) any part or whole of a human body whether nude or semi-nude or otherwise without the consent of the person concerned; and

(b) any part or whole of a human body at a public place without the consent of the person concerned.

Penalty.

8. (1) Whoever contravenes the provisions of,—

(i) Section 3 shall be punished with imprisonment for a term which shall not be less than two years but may extend to four years and also with fine which may extend to two lakh rupees;

(ii) Section 5 shall be punished with imprisonment for a term which shall not be less than five years but may extend to seven years and also with fine which may extend to five lakh rupees;

(iii) Section 6 shall be punishable with imprisonment for six months or with fine which may extend to two lakh rupees or with both.

(2) Any mobile company which contravenes the provisions of section 4 shall be punished with fine which may extend to ten lakh rupees and suspension of its licence for a period of one year.

Offences to be cognizable.

9. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 every offence punishable under this Act shall be cognizable.

2 of 1974.

Overriding effect of the Act

10. The provision of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Power to make rules.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.



## STATEMENT OF OBJECTS AND REASONS

Of late, telephone subscribers, both mobile phones and land line phones, are facing the problem of unsolicited calls from Tele marketing Service Providers, Private Banks, Insurance Companies and money lenders offering loans, credit cards, motor vehicles and so on and so forth offering various incentives, schemes and gift offers in order to promote their business interest. Many a time these calls are very irritating particularly when someone is very busy in meetings, official work, family functions etc. and when received at odd hours. To get rid of this menace a petition has also been filed in the Supreme Court of India. As regards land line phones MTNL or BSNL publish telephone directories but in case of cellular mobile phones the information can be given generally by the mobile phone operating companies. The menace of unsolicited phone calls needs to be stopped by providing deterrent punishment through legislation.

Similarly, the much publicised Multi Media Messaging Service (MMS) episode of a Public School in Delhi, the case of a Pune based landlord intruding on the privacy of his female tenants, videography of unsuspecting newly wed couples on honeymoon in a five star hotel, have put question marks on citizens' right to privacy. With increasing commercialization of sex, people use phone cameras to secretly capture private images of girls and women and then blackmail them and embarrass them. These cameras are used to take up close photographs of private parts of unwary girls and women in gyms, beauty parlours, swimming pools, hotel room, bathrooms, etc. or even in busy public places. This shows how the unscrupulous elements are misusing and exploiting the new advancement in technology. Hence it becomes the uppermost duty of the State to protect its citizens and the society as well. In order to control this virtual lawlessness a new law has become necessary to provide deterrent action against the defaulters.

Hence this Bill.

B. J. PANDA

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

YOGENDRA NARAIN,  
*Secretary-General.*